

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KRISTY HUGHES,)	7:06CV5019
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
MICHAEL J. ASTRUE,)	
Commissioner of the Social Security)	
Administration,)	
)	
Defendant.)	

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (filing 24). The Commissioner has filed a response (filing 27) stating that she has no objection to the Plaintiff's request for the award of fees in the amount of \$2,031.25 (12.5 hours of attorney time at \$162.50¹ per hour).

The court has determined that Plaintiff was indeed the prevailing party in this action, as this action was remanded to the Secretary for further action; that the application for fees was filed in a timely fashion²; and that the position of the Commissioner was not substantially justified. Therefore, Plaintiff is entitled to an award of attorney fees.

Plaintiff has assigned her entitlement to EAJA fees to her attorney, James E.

¹This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 29, 1996. (Filing 25 at 10.)

²An EAJA fee application based on a district court judgment remanding a case pursuant to sentence four of 42 U.S.C. § 405(g) must be filed within 90 days of the sentence four judgment. Shalala v. Schaefer, 509 U.S. 292, 302 (1993).

Schneider and his employer, Schneider Law Office, P.C., and has requested that the EAJA fees be made payable directly to Schneider Law Office, P.C. (Filing 25 at 6.) The Commissioner does not object to payment in this manner. (Filing 27.) I will so order.

IT IS ORDERED:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 24) is granted;

2. By separate document, the court shall enter judgment for Plaintiff and against Defendant providing that Plaintiff is awarded attorney fees in the amount of \$2,031.25.

3. Payment shall be made by check payable directly to Schneider Law Office, P.C., and mailed to the street address of record for that law firm.

August 21, 2007.

BY THE COURT:

s/Richard G. Kopf
United States District Judge